

Dear Local Government Committee Members:

I believe that Senator Lewis should be applauded for his efforts to extend protection for the citizens from oppressive government and mob rule by proposing SB 325.

I was very involved in the recent zoning protest effort in L&C County. There were hundreds of volunteer man (and woman) hours spent gathering signatures to protest L&C County's haphazard zoning regulations. Why should citizens have to spend their precious time protesting something that they disagree with year after year? I know that I would much rather spend time with my kids than sign and collect protest letters for a month every year.

During the zoning process, L&C County CAO Ron Alles was asked what he would do if zoning was successfully protested. He said he would just propose it again next year. I can assure you that if he knew that if it was successfully protested L&C County would have to wait 5 years to propose it again, he would have taken more time to assure that the regulations had citizen support, and would have promoted bottom up zoning instead of top down.

The agricultural protest provision provides equal protection to a minority, and prevents mob rule. I'll give you an example. Say that there was a zoning district that had 10,001 acres in it. 1 acre was owned by a condo association with 9 individual owners (freeholders), and the other 10,000 acres is owned by a rancher. Those 9 owners could push zoning preventing any type of subdivision, thus ensuring that they would always have 10,000 acres of open space to enjoy. Thankfully the legislature had the wisdom and foresight to give protection to that single 10,000 acre landowner. Thus, if those 9 owners want zoning, they are either going to have to get approval from the rancher, or else not zone his property and only zone their own. Again, why should this hypothetical rancher have to protest zoning year after year? What if one year he forgets to get his protest in within the 30 day time frame, or as was the case in L&C County this year, his protest is thrown out because he forgot to have his wife sign the protest form, or because he was purchasing the property on a contract for deed and the original owner didn't sign?

Too extreme of an example? Let me give you another. Let's suppose that you own 20 acres of qualified agricultural land that is surrounded by residential development. You've been holding onto that little piece of ground for your kids' college fund, retirement, etc. The County comes in and zones for 20 acre minimums. Your neighbors aren't going to oppose it ... they all live on 1/2 acre lots and the zoning doesn't affect them. Who is going to let you know the County has proposed these regs? What if you don't read the legal ads and miss the notice? What if that 30 days slips by, and you don't get your protest in? You can go ahead and kiss your kids' college fund goodbye. Now, suppose instead of a 1 year moratorium, there is a 5 year moratorium. Sure, the County and neighbors may still try and slip this through without your knowledge, but I guarantee that if your protest is good for 5 years, there is a much better chance that you will be able to protect your private property rights.

If you don't think that government can be oppressive, one needs look no further than the recent actions of L&C County. Because of the stubbornness of some in the local L&C government, I've also been put into the position of having to take the County to court to enforce the provisions of the zoning protest that the legislature laid out. This is a waste of valuable time and resources. I really think it unfair that I could very well have to go through this whole thing again one year from now. This bill sends a very strong message to oppressive governments, and that message is get the people involved at the beginning, and listen to the people affected, or take your chances with pushing through an ill advised zoning regulation that could very well be protested, and if it is, go to your corner and take a 5 year time out. If this wouldn't be a deterrent to oppressive government, then I guess I don't know what would be.

We need a 5 year moratorium provision in the statute. It will promote better and more open government.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read "Michael J. Fasbender", with a long horizontal flourish extending to the right.

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